

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

KEITH BRANDON SMITH,

Petitioner,

v.

Case No. 2:06-cv-178  
HON. R. ALLAN EDGAR

LINDA METRISH,

Respondent.

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**MEMORANDUM AND ORDER**

Petitioner Keith Brandon Smith, a state prisoner in the custody of the Michigan Department of Corrections, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. The habeas petition was referred to Magistrate Judge Timothy P. Greeley for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and W.D. Mich. LCivR 72.1(d).

Magistrate Judge Greeley has submitted his report and recommendation. [Doc. No. 54]. It is recommended that the habeas petition be denied. Petitioner Smith filed objections to the report and recommendation. [Doc. No. 55].

After reviewing the entire record *de novo*, the Court finds that the petitioner's objections are without merit and are **DENIED**. Pursuant to 28 U.S.C. § 636(b)(1) and W.D. Mich. LCivR 72.3(b) the Court **ACCEPTS and ADOPTS** the report and recommendation as the opinion of the Court. For the reasons expressed in the report and recommendation, the Court concludes that the habeas

petition is without merit. The petition for writ of habeas corpus brought under 28 U.S.C. § 2254 shall be **DENIED and DISMISSED WITH PREJUDICE**.

If petitioner Smith files a notice of appeal, it will be treated as an application for a certificate of appealability which shall be **DENIED** pursuant to 28 U.S.C. § 2253(c)(2) and Fed. R. App. P. 22(b)(1) because the Court finds that he has not made a substantial showing of the denial of a federal constitutional right.

A separate judgment will enter.

SO ORDERED.

Dated: February 6, 2009.

/s/ R. Allan Edgar

R. ALLAN EDGAR  
UNITED STATES DISTRICT JUDGE

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